

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

KHIRY JAMAL GATES,

Plaintiff,

Case No. 19-cv-1525-pp

v.

EUTECTIC CASTOLIN,
and JOHNNY DANIELS,

Defendants.

**ORDER GRANTING DEFENDANTS' MOTION FOR ATTORNEYS' FEES AND
COSTS (DKT. NO. 35), GRANTING DEFENDANTS' MOTION FOR
SANCTIONS (DKT. NO. 30) AND DISMISSING CASE WITH PREJUDICE**

I. Attorneys' Fees and Costs

On July 30, 2021, the defendants filed a petition for attorneys' fees, asking for an award of \$9,274.50. Dkt. No. 35. The defendants attached a declaration providing a line-item account of the expenses totaling that amount. Dkt. No. 36-1. The plaintiff has not responded.

The defendants filed their motion in response to the court's July 15, 2021 order granting their previous motion for sanctions and attorneys' fees and costs. Dkt. No. 34. The court ordered the defendants to file an itemized list of the fees and costs "involved in bringing their motion for sanctions as well as those incurred during their efforts to obtain discovery responses from the plaintiff." Id. at 5-6.

The court will award the defendants \$9,274.50 in attorneys' fees and costs.

II. Dismissal of Case

The defendants also have asked the court to dismiss the plaintiff's case with prejudice under Federal Rule of Civil Procedure 37. Dkt. No. 30. In its July 15, 2021 decision, the court addressed an earlier motion for dismissal by the defendants, ordering that by August 13, 2021 the plaintiff must file

a written document explaining [] why the court should not dismiss this case with prejudice for the plaintiff's failure to respond to the defendants' discovery requests, his failure to respond to their motion to compel, his failure to comply with this court's scheduling order and its April 30, 2021 order and his failure to respond to the defendants' motion for sanctions.

Dkt. No. 34 at 6-7. The court warned the plaintiff that it "[i]f the court does not receive the plaintiff's written explanation by the end of the day on **August 13, 2021**, the court will grant the defendants' motion to dismiss the case with prejudice." Id. at 7 (original emphasis).

The August 13, 2021 deadline has passed, and the court has not received a written response from the plaintiff. The plaintiff—representing himself—filed this complaint on October 16, 2019. Dkt. No. 1. Early on, he participated in the litigation. But he last participated in the case in December of 2020, when he worked with defense counsel to provide a joint Rule 26(f) plan. Dkt. No. 22. In the past eight months, the plaintiff has not filed any documents with the court. He has not responded to the defendants' discovery demands. Dkt. Nos. 26, 30. He has not responded to the court's order that he

explain these failures. Dkt. No. 34. The court will grant the defendants' motion to dismiss with prejudice under Fed. R. Civ. P. 37.

III. Conclusion

The court **AWARDS** \$9,274.50 in attorney fees to the defendants. The plaintiff must pay the defendants the sum of \$9,274.50 by the end of the day on **September 3, 2021**. Dkt. No. 35.

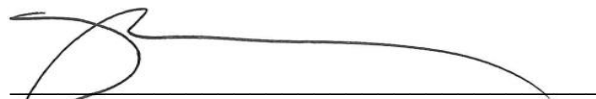
The court **GRANTS** the defendants' motion for sanctions in the form of dismissal of the case under Fed. R. Civ. P. 37. Dkt. No. 30.

The court **GRANTS** the defendant's motion to dismiss the case with prejudice. Dkt. No. 35.

The court **ORDERS** that this case is **DISMISSED WITH PREJUDICE** under Fed. R. Civ. P. 37. The clerk will enter judgment accordingly.

Dated in Milwaukee, Wisconsin this 18th day of August, 2021.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge